

REMARKS

Status of the Claims:

Claims 1-25 and 28-54 are active in the application. Claims 26 and 27 have been canceled without prejudice or disclaimer. Claims 1, 14, 15, 17 and 31 have been amended. New claims 33-54 have been added. Applicants submit that no new matter has been added by way of this amendment. Claims 1, 14, 31, 38, 44 and 49 are independent claims.

Status of the Application:

Active claims 1-25 and 28-32 stand rejected under 35 U.S.C. 103(a) as unpatentable over Minton (U.S. PG Pub 2002/0091611A1) in view of Nieboer et al. (U.S. patent No. 6,418,419). Summarizing the last Office Action, the Examiner states that Minton teaches a system for implementing barter between a plurality of parties each having one or more securities available for barter, but that Minton fails to teach a second class of items to be purchased in a transaction including the sale of the first security. The Examiner goes on to state that Nieboer et al. teaches means for designating a second class of items to be purchased in a transaction including the sale of the first security. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to modify Minton's inventive concept to include Nieboer et al's concept.

While applicant respectfully traverses the Examiner's characterization of the teachings and combination of the applied references and reserves the right to challenge

same in the future, it is submitted the rejection is overcome by the current amendments to the claims.

More particularly, each of the independent claims, amended and newly added, now incorporates limitations relating to the receiving of barter orders by both direct barterers and intermediaries into the barter database. For example, claim 1 as amended now recites means for receiving a barter order from a direct barterer into the barter database and means for receiving a barter order from an intermediary into the barter database. See also, for example, claim 17 reciting the barter database including at least one barter order posted by a direct barterer and at least one barter order posted by an intermediary. Each of the independent claims contains similar limitations.

As noted in the specification (see Figures 7A-7E and the corresponding description in the specification), direct barterers barter only within the claimed system, while intermediaries may also communicate and trade with external parties including exchanges and brokers. New claims 34-36 and 38-42, and 44-52 include various limitations relating to the direct barterers and intermediaries.

As currently claimed, applicant's invention recites systems and methods enabling both direct barterers and intermediaries to form barter orders and execute transactions relating to barter orders. The express inclusion of both direct barterers and intermediaries provides the ability for market makers, functioning as intermediaries having access to external systems, to form barter orders and to execute transactions relating to barter orders through external sources.

The invention as claimed thus recites substantial, valuable functionality nowhere shown or suggested in the prior art. More particularly, Minton teaches only the participation of a broker as an 'approver' of participants. See for example paragraph 57. Nieboer et al. appears to teach an auction market, see for example column 1, lines 36 – 55, and the transmission of a trade to a market for execution. See, for example, column 4, lines 13-21, column 7, lines 56-66 and column 12, lines 50-55. Nieboer et al. does not appear to teach any participation by an intermediary bartering within the system as taught and claimed by Applicant.

It is thus submitted that applicant's claimed invention relating to barter orders tradable within a system accommodating both direct barterers and intermediaries is patentable over the art of record. For these reasons entry of this amendment and a timely allowance of the claims is respectfully requested.

CONCLUSION

It is now believed that all pending claims are in condition for allowance. In view of these remarks, an early and favorable reconsideration is respectfully requested.

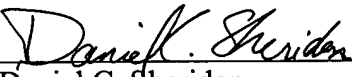
Authorization

If the Commissioner determines that an additional fee is due, applicant authorizes the Commissioner to charge any required fee, or credit any overage, to deposit account 13-4500, Order No. 4159-4003US2. **A duplicate of this sheet is included.**

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Date March 8, 2004

By: 
Daniel C. Sheridan
Reg. No.: 53,585

MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154
(212)758-4800 (telephone)
(212)751-6849 (facsimile)